

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 23

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Steve Komadina

AN ACT

RELATING TO MEDICAL CARE; PROVIDING LIMITED MALPRACTICE  
LIABILITY FOR RETIRED, STILL-LICENSED MEDICAL DOCTORS,  
PHYSICIAN ASSISTANTS AND ANESTHESIOLOGIST ASSISTANTS WHO  
PROVIDE VOLUNTEER CARE WITHOUT COMPENSATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 41-5-2 NMSA 1978 (being Laws 1976,  
Chapter 2, Section 2) is amended to read:

"41-5-2. [~~PURPOSE~~] PURPOSES OF ACT.--The [~~purpose~~]  
purposes of the Medical Malpractice Act [~~is~~] are to promote the  
health and welfare of the people of New Mexico by:

A. making available professional liability  
insurance for health care providers in New Mexico; and

B. providing limited liability for retired, still-  
licensed medical doctors, physician assistants and

underscored material = new  
[bracketed material] = delete

1 anesthesiologist assistants who render voluntary medical  
2 services without compensation at free or low-cost health care  
3 facilities licensed by the department of health."

4 Section 2. A new section of the Medical Malpractice Act  
5 is enacted to read:

6 "[NEW MATERIAL] VOLUNTEER MEDICAL SERVICES--LIMITED  
7 LIABILITY--RULES.--

8 A. A retired medical doctor, physician assistant or  
9 anesthesiologist assistant, still licensed under the Medical  
10 Practice Act, who voluntarily and without compensation provides  
11 medical services within the scope of the retiree's license at a  
12 free or low-cost health care facility that accepts no insurance  
13 payments and is licensed by the department of health, is not  
14 liable for any civil damages for an act or failure to act  
15 resulting from the provision of those medical services unless  
16 the act or failure to act was the result of the retiree's gross  
17 negligence or willful misconduct.

18 B. The department of health shall adopt rules to  
19 provide for the licensing of free or low-cost health care  
20 facilities under this section; provided that those rules shall  
21 require that a person who receives medical services as provided  
22 in Subsection A of this section is fully informed by the health  
23 care facility of the limited liability provided in this section  
24 and that the person acknowledges receiving the information in  
25 writing on a form provided by the department of health.

.164105.1

1 C. The provisions of this section shall not affect  
2 the Emergency Powers Code."

3 Section 3. EFFECTIVE DATE.--The effective date of the  
4 provisions of this act is July 1, 2007.

5 - 3 -

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

underscoring material = new  
~~[bracketed material]~~ = delete